

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,
ASCOT FUND LTD., GABRIEL CAPITAL
CORPORATION,

Defendants.

SIPA LIQUIDATION

No. 08-01789 (SMB)

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

SEVENTH AMENDED CASE MANAGEMENT PLAN

Irving Picard, Esq., as trustee (the “Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC, and Defendants J. Ezra Merkin, Gabriel Capital, L.P., Ariel Fund Ltd., Ascot Partners, L.P., Ascot Fund Ltd., and Gabriel Capital Corporation (“Defendants”) (collectively, the “Parties”) seek to consolidate and modify the December 13, 2013 Sixth Amended Case Management Plan [ECF No. 181] and the February 13, 2014 Case Management Plan [ECF No. 203], pursuant to Fed. Civ. R. P. 16(a)(4), as incorporated into Bank. R. 7016.

In order to address certain scheduling conflicts, accommodate the schedules of certain individuals yet to be deposed, and complete third-party discovery, and in light of pending decisions and related discovery concerning the discovery disputes currently before the Binding Arbitrator, the Parties respectfully request that the Sixth Amended Case Management Plan [ECF

No. 181] and the Ascot Fund Ltd. Case Management Plan [ECF No. 203] be consolidated and modified as follows:

1. Motion to Dismiss Briefing: The Trustee filed the Third Amended Complaint on August 30, 2013. Defendants J. Ezra Merkin, Gabriel Capital, L.P., Ariel Fund Ltd., Ascot Partners, L.P., and Gabriel Capital Corporation (the “Merkin Defendants”) filed motions to dismiss the Third Amended Complaint on October 11, 2013. The Trustee filed an opposition to the Merkin Defendants’ motions to dismiss on November 15, 2013. The Merkin Defendants filed reply briefs on December 20, 2013. Any oral argument on the Merkin Defendants’ motions to dismiss shall be on April 30, 2014 at 10:00 a.m.

Defendant Ascot Fund Ltd. filed a Motion to Dismiss the Third Amended Complaint and to Sever on December 20, 2013. The Trustee filed an opposition to Defendant Ascot Fund Ltd.’s motion to dismiss on January 31, 2014. Defendant Ascot Fund Ltd. filed a reply brief on February 28, 2014. Any oral argument on Defendant Ascot Fund Ltd.’s motion to dismiss shall be on April 30, 2014 at 10:00 a.m.

2. Discovery Cut-off: All document discovery, fact depositions, and all fact discovery must be completed by October 31, 2014.

3. Experts: Every party-proponent that intends to offer expert testimony in respect of such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2) on or before January 30, 2015. Every party-opponent of such claim that intends to offer expert testimony in opposition to such claim must make the disclosures required by Fed. R. Civ. P. 26(a)(2) on or before March 13, 2015. No expert testimony (whether designated as “rebuttal” or otherwise) will be permitted by other experts or beyond the scope of the opinion covered by the aforesaid disclosures except upon prior express permission of the Court, application for which must be

made no later than 10 days after the date specified in the immediately preceding sentence. All experts may be deposed, but such depositions must occur on or before April 24, 2015. The foregoing restriction shall not include amendments to expert reports in light of new evidence as required by Fed. R. Civ. P. 26.

4. Next Conference: The parties shall next appear before the Court on April 29, 2015 at 10:00 a.m.

5. Settlement: The parties have engaged in some settlement discussions, and will notify the Court if they believe a settlement conference would be productive.

6. Summary Judgment Briefing: The following shall be the schedule for summary judgment:

June 5, 2015: Motion(s) for Summary Judgment Due.

July 17, 2015: Summary Judgment Response Brief(s) Due.

August 14, 2015: Summary Judgment Reply Brief(s) Due.

Notwithstanding the foregoing, any party intending to make a summary judgment motion must comply with Local Bankruptcy Rule 7056-1(a). [SMB: 4/22/14]

SO ORDERED.

Dated: April 22, 2014
New York, NY

/s/ Stuart M. Bernstein
STUART M. BERNSTEIN
United States Bankruptcy Judge